

ESTTA Tracking number: **ESTTA446291**Filing date: **12/14/2011**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

| | |
|---------------------------------------|---|
| Name | Professor Connor's, Inc., DBA FreshPet |
| Granted to Date of previous extension | 12/14/2011 |
| Address | 400 Plaza Drive, 1st Floor Secaucus, NJ 07904 UNITED STATES |
| Attorney information | CHERYL L. BURBACH HOVEY WILLIAMS LLP 10801 MASTIN BOULEVARD, SUITE 1000 OVERLAND PARK, KS 66210 UNITED STATES litigation@hoveywilliams.com, clb@hoveywilliams.com Phone:913-647-9050 |

Applicant Information

| | | | |
|------------------------|---|------------------------|------------|
| Application No | 85259382 | Publication date | 08/16/2011 |
| Opposition Filing Date | 12/14/2011 | Opposition Period Ends | 12/14/2011 |
| Applicant | Green Life Development Inc. Suite C 5112 W. Charleston Blvd. Las Vegas, NV 89146 UNITED STATES | | |

Goods/Services Affected by Opposition

Class 003. First Use: 2009/06/25 First Use In Commerce: 2009/06/25
All goods and services in the class are opposed, namely: Environmentally friendly deodorizers for pets


Grounds for Opposition

| | |
|--------------------------------------|----------------------------|
| Priority and likelihood of confusion | Trademark Act section 2(d) |
|--------------------------------------|----------------------------|

Marks Cited by Opposer as Basis for Opposition

| | | | |
|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 3383087 | Application Date | 01/31/2006 |
| Registration Date | 02/12/2008 | Foreign Priority Date | NONE |
| Word Mark | FRESHPET | | |

| | |
|---------------------|---|
| Design Mark |  |
| Description of Mark | The mark consists of FRESHPET and logo. |
| Goods/Services | Class 031. First use: First Use: 2006/01/00 First Use In Commerce: 2006/01/00 Pet food |

| | | | |
|-----------------------|---|-----------------------|------------|
| U.S. Registration No. | 4028462 | Application Date | 02/17/2011 |
| Registration Date | 09/20/2011 | Foreign Priority Date | NONE |
| Word Mark | FRESHPET | | |
| Design Mark |  | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 031. First use: First Use: 2006/01/00 First Use In Commerce: 2006/01/00 pet food | | |

| | |
|-------------|--|
| Attachments | 78803099#TMSN.jpeg (1 page)(bytes) 85245285#TMSN.jpeg (1 page)(bytes) Notice of Opposition.pdf (18 pages)(647469 bytes) |
|-------------|--|

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

| | |
|-----------|---------------------|
| Signature | /Cheryl L. Burbach/ |
| Name | Cheryl L. Burbach |
| Date | 12/14/2011 |

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

| | | |
|--------------------------------|---|----------------------|
| Professor Connor's, Inc. d/b/a |) | |
| FreshPet |) | |
| Opposer, |) | |
| |) | |
| v. |) | Opposition No. _____ |
| |) | |
| |) | |
| Green Life Development, Inc. |) | |
| Applicant. |) | |

NOTICE OF OPPOSITION

In the matter of Application Serial No. 85259382, filed March 7, 2011, in the name of Green Life Development, Inc. (hereinafter "Applicant"), published for opposition in the Trademark *Official Gazette* of August 16, 2011, for the mark GREEN PET FRESH, Professor Connor's, Inc. d/b/a FreshPet (hereinafter "Opposer") believes that it would be damaged by registration of the mark shown in said application and hereby opposes the same.

As grounds for opposition, it is alleged that:


Parties

1. Opposer, Professor Connor's Inc., d/b/a FreshPet, is a corporation organized under the State of Delaware having a principal place of business at 400 Plaza Drive, Secaucus, New Jersey 07904.
2. Applicant, Green Life Development, Inc., is, on information and belief, is a Nevada corporation, with an address of Suite C 5112 W. Charleston Blvd., Las Vegas, Nevada 89146.

COUNT I

3. Since at least as early as January 2006, Opposer has been and is now engaged in the business of selling pet food. The mark FRESHPET, in word form and design form, has at all times been used on or with goods that are related to Opposer's goods.

4. Opposer owns two registered trademarks with the United States Patent and Trademark Office, which consist of or include the FRESHPET mark:

| TRADEMARK | CLASS: GOODS | REG. NUMBER REG. DATE |
|---|--------------|-------------------------------|
|  | 31: pet food | 3383087 February 12, 2008 |
| FRESHPET | 31: pet food | 4028462 September 20, 2011 |

5. As a result of Opposer's widespread use in interstate commerce of the Marks in connection with pet food, the Marks have become highly distinctive, have acquired extensive goodwill, and are well known and recognized by the relevant consuming public as identifying high quality goods, which have their origin with Opposer.

6. Opposer's Marks were in use prior to the acquisition of any rights Applicant may currently claim in his mark.

7. Notwithstanding Opposer's prior rights in and to the aforesaid distinctive Marks, on March 7, 2011, Applicant filed an application for registration of a mark consisting of the words GREEN PET FRESH, Application Serial No. 85259382, which was published for opposition, identifying the following goods: "environmentally friendly deodorizers for pets" in International Class 3.

8. Applicant's use and registration of its mark in connection with the proposed goods is likely to cause in the minds of the public confusion, mistake or deception as to the source of origin of Applicant's goods that would lead the public and prospective purchasers to believe that Applicant's goods are those of Opposer's and/or are provided by, sponsored by, approved by, licensed by, affiliated with Opposer, or are in some other way legitimately connected to Opposer and/or its goods.

9. To allow registration of the mark GREEN PET FRESH for the goods identified in the opposed application to Applicant in view of the prior rights of Opposer would cause damage to Opposer and to the reputation and goodwill it enjoys in its Marks.

WHEREFORE, Opposer respectfully requests that this opposition be sustained and Applicant's application to register the mark GREEN PET FRESH, Application Serial No. 85259382 be denied as filed and published, and Applicant adjudged not entitled to registration of his mark. If any additional fee is due in connection with the filing of this Notice of Opposition, it may be charged to Deposit Account 19-0522.

Respectfully Submitted,

Professor Connor's, Inc. dba FreshPet

By its Attorneys,

/s/ Cheryl L. Burbach

Cheryl L. Burbach

Matthew B. Walters

HOVEY WILLIAMS LLP

10801 Mastin Boulevard, Suite 1000

Overland Park, KS 66210

Phone: 913-647-9050

Attorneys for Opposer

CERTIFICATE OF FILING

I hereby certify that a true and correct copy of the foregoing Notice of Opposition was filed electronically with the Trademark Trial and Appeal Board on this 14th day of December, 2011.

/s/ Cheryl L. Burbach

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Notice of Opposition, which was filed electronically with the Trademark Trial and Appeal Board, and was served upon the Applicant, this 14th day of December, 2011, at the following address:

Green Life Development, Inc.
c/o David Levy (Correspondent of Record)
5112 W. Charleston Blvd., Suite C
Las Vegas, Nevada 89146

/s/Cheryl L. Burbach

Exhibit A

Int. Cl.: 31

Prior U.S. Cls.: 1 and 46

United States Patent and Trademark Office

Reg. No. 3,383,087

Registered Feb. 12, 2008

**TRADEMARK
PRINCIPAL REGISTER**



PROFESSOR CONNORS INC. (DELAWARE COR-
PORATION)
400 PLAZA DRIVE
SECAUCUS, NJ 07904

THE MARK CONSISTS OF FRESHPET AND
LOGO.

FOR: PET FOOD, IN CLASS 31 (U.S. CLS. 1 AND
46).

SN 78-803,099, FILED 1-31-2006.

FIRST USE 1-0-2006; IN COMMERCE 1-0-2006.

MICHELLE DUBOIS, EXAMINING ATTORNEY



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| | |
|--|--|
| Word Mark | FRESHPET |
| Goods and Services | IC 031. US 001 046. G & S: Pet food. FIRST USE: 20060100. FIRST USE IN COMMERCE: 20060100 |
| Mark Drawing Code | (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS |
| Design Search Code | 26.01.06 - Circles, semi; Semi-circles 26.01.21 - Circles that are totally or partially shaded. 26.05.13 - Triangles, exactly two triangles; Two triangles 26.05.21 - Triangles that are completely or partially shaded 26.05.25 - Triangles with one or more curved sides |
| Trademark Search Facility Classification Code | SHAPES-CIRCLE Circle figures or designs including semi-circles and incomplete circles SHAPES-TRIANGLES Triangular shaped designs and marks including incomplete triangles |
| Serial Number | 78803099 |
| Filing Date | January 31, 2006 |
| Current Filing Basis | 1A |
| Original Filing Basis | 1B |
| Published for Opposition | August 29, 2006 |
| Registration Number | 3383087 |
| Registration Date | February 12, 2008 |
| Owner | (REGISTRANT) Professor Connors Inc. CORPORATION DELAWARE 400 Plaza Drive Secaucus NEW JERSEY 07904 |
| Assignment Recorded | ASSIGNMENT RECORDED |

| | |
|----------------------------|--|
| Attorney of Record | Cheryl L. Burbach |
| Description of Mark | Color is not claimed as a feature of the mark. The mark consists of FRESHPET and logo. |
| Type of Mark | TRADEMARK |
| Register | PRINCIPAL |
| Live/Dead Indicator | LIVE |

| | | | | | | | |
|---------------------------|--------------------------|----------------------------|---------------------------|-----------------------------|---------------------------|---------------------|----------------------|
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Serial Number: 78803099 Assignment Information Trademark Document Retrieval

Registration Number: 3383087

Mark



(words only): FRESHPET

Standard Character claim: No

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2008-02-12

Filing Date: 2006-01-31

Filed as TEAS Plus Application: Yes

Currently TEAS Plus Application: Yes

Transformed into a National Application: No

Registration Date: 2008-02-12

Register: Principal

Law Office Assigned: LAW OFFICE 107

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2008-01-05

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Professor Connors Inc.

Address:

Professor Connors Inc.
400 Plaza Drive
Secaucus, NJ 07904
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 031
Class Status: Active
Pet food
Basis: 1(a)
First Use Date: 2006-01-00
First Use in Commerce Date: 2006-01-00

ADDITIONAL INFORMATION

Color(s) Claimed: Color is not claimed as a feature of the mark.

Description of Mark: The mark consists of FRESHPET and logo.

Design Search Code(s):

26.01.06 - Circles, semi; Semi-circles
26.01.21 - Circles that are totally or partially shaded.
26.05.13 - Triangles, exactly two triangles; Two triangles
26.05.21 - Triangles that are completely or partially shaded
26.05.25 - Triangles with one or more curved sides

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2011-02-17 - Attorney Revoked And/Or Appointed
2011-02-17 - TEAS Revoke/Appoint Attorney Received
2008-02-12 - Registered - Principal Register
2008-01-05 - Law Office Registration Review Completed
2008-01-05 - Assigned To LIE
2007-11-19 - Allowed for Registration - Principal Register (SOU accepted)
2007-10-26 - Statement Of Use Processing Complete

2007-10-26 - Extension 1 granted
2007-10-11 - Use Amendment Filed
2007-10-11 - Extension 1 filed
2007-10-17 - Assignment Of Ownership Not Updated Automatically
2007-10-11 - TEAS Extension Received
2007-10-11 - TEAS Statement of Use Received
2007-05-08 - NOA Mailed - SOU Required From Applicant
2007-04-12 - Attorney Revoked And/Or Appointed
2007-04-12 - TEAS Revoke/Appoint Attorney Received
2007-03-13 - Extension Of Time To Oppose Process - Terminated
2006-09-21 - Extension Of Time To Oppose Received
2006-08-29 - Published for opposition
2006-08-09 - Notice of publication
2006-07-06 - Law Office Publication Review Completed
2006-06-30 - Assigned To LIE
2006-06-23 - Approved For Pub - Principal Register
2006-06-19 - Assigned To Examiner
2006-02-07 - Notice Of Design Search Code Mailed
2006-02-06 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Cheryl L. Burbach

Correspondent

Cheryl L. Burbach
Hovey Williams LLP
10801 Mastin Blvd., Suite 1000
Overland Park KS 66210
Phone Number: 913-647-9050
Fax Number: 913-647-9057

Exhibit B

United States of America
United States Patent and Trademark Office

FRESHPET

Reg. No. 4,028,462

Registered Sep. 20, 2011

Int. Cl.: 31

TRADEMARK

PRINCIPAL REGISTER

PROFESSOR CONNOR'S, INC. (DELAWARE CORPORATION)
400 PLAZA DRIVE, 1ST FLOOR
SECAUCUS, NJ 07904

FOR: PET FOOD, IN CLASS 31 (U.S. CLS. 1 AND 46).

FIRST USE 1-0-2006; IN COMMERCE 1-0-2006.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NO. 3,383,087.

SER. NO. 85-245,285, FILED 2-17-2011.

PAULA MAHONEY, EXAMINING ATTORNEY



David J. Kybas

Director of the United States Patent and Trademark Office



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FRESHPET

| | |
|------------------------------------|---|
| Word Mark | FRESHPET |
| Goods and Services | IC 031. US 001 046. G & S: pet food. FIRST USE: 20060100. FIRST USE IN COMMERCE: 20060100 |
| Standard Characters Claimed | |
| Mark Drawing Code | (4) STANDARD CHARACTER MARK |
| Serial Number | 85245285 |
| Filing Date | February 17, 2011 |
| Current Filing Basis | 1A |
| Original Filing Basis | 1A |
| Published for Opposition | July 5, 2011 |
| Registration Number | 4028462 |
| Registration Date | September 20, 2011 |
| Owner | (REGISTRANT) Professor Connor's, Inc. CORPORATION DELAWARE 400 Plaza Drive, 1st Floor Secaucus NEW JERSEY 07904 |
| Attorney of Record | Cheryl L. Burbach |
| Prior Registrations | 3383087 |
| Type of Mark | TRADEMARK |
| Register | PRINCIPAL |
| Live/Dead Indicator | LIVE |

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Serial Number: 85245285 Assignment Information Trademark Document Retrieval

Registration Number: 4028462

Mark

FRESHPET

(words only): FRESHPET

Standard Character claim: Yes

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2011-09-20

Filing Date: 2011-02-17

Transformed into a National Application: No

Registration Date: 2011-09-20

Register: Principal

Law Office Assigned: LAW OFFICE 117

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2011-09-20

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Professor Connor's, Inc.

Address:

Professor Connor's, Inc.
400 Plaza Drive, 1st Floor

Secaucus, NJ 07904
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 031
Class Status: Active
pet food
Basis: 1(a)
First Use Date: 2006-01-00
First Use in Commerce Date: 2006-01-00

ADDITIONAL INFORMATION

Prior Registration Number(s):
3383087

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2011-09-20 - Registered - Principal Register
2011-07-05 - Published for opposition
2011-06-15 - Notice of publication
2011-05-28 - Approved for Pub - Principal Register (Initial exam)
2011-05-18 - Assigned To Examiner
2011-02-23 - New Application Office Supplied Data Entered In Tram
2011-02-21 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
Cheryl L. Burbach

Correspondent
CHERYL L. BURBACH

HOVEY WILLIAMS LLP
10801 MASTIN ST STE 1000
OVERLAND PARK, KS 66210-1697
Phone Number: 913-647-9050
Fax Number: 913-647-9057
